

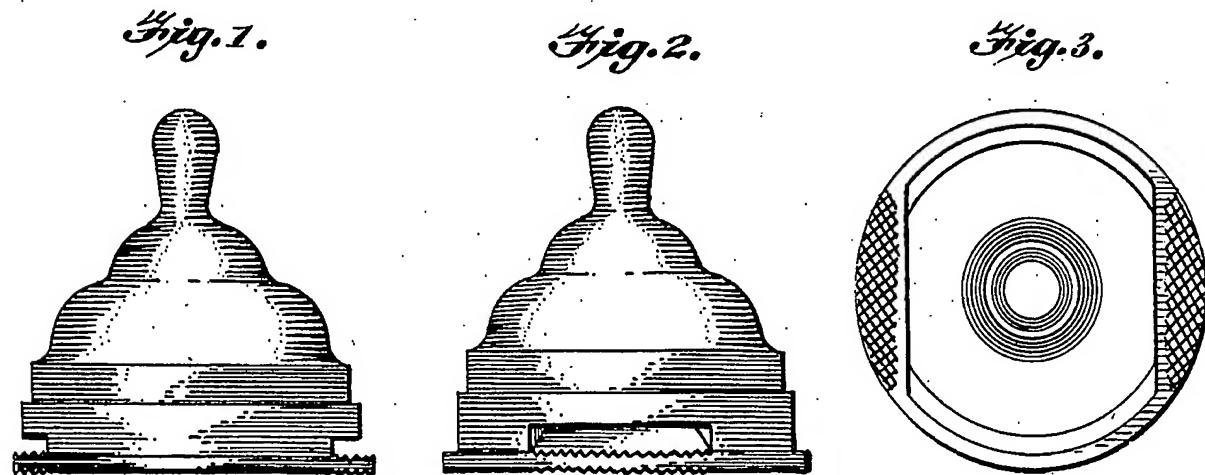
Remarks

Claims 34, 37 through 44, and 57 through 64 are pending in the application. Claims 1 through 33 were canceled previously.

The Office Action asserts that under 35 U.S.C. §102(e), claims 34, 37 through 54, and 57 through 64 are anticipated by U.S. Design Patent No. 130,791 to Porthouse. Applicant notes that claims 45 through 54 are not currently pending and thus are not discussed below.

Independent claim 34 recites a nipple for feeding a baby. The nipple includes a stem having an orifice, a proximal end, and a distal end. An areola region is connected to the proximal end, and the stem is inwardly tapered toward the distal end. A bulbous region is connected to and surrounds the areola region. The areola region is substantially concentrically aligned with the bulbous region when viewed in a top view. The proximal end of the stem has opposing sides with inwardly concave shapes when viewed in a front view, and the areola region and the proximal end of the stem are connected along an inwardly concave, smooth surface.

Porthouse fails to anticipate claim 34. Porthouse is a design patent disclosing a nipple having the shape shown below:



A claim is anticipated only if each and every element as set forth in the claim is found in a single reference. To anticipate a claim, a drawing must clearly show all the claimed structural features and how they are put together. See MPEP 2125. Porthouse does not disclose or suggest elements of claim 34. For example, Porthouse fails to disclose or suggest a stem having an orifice. Porthouse includes only the three figures shown above. None of the figures show any type of orifice on the stem portion of the nipple.

Porthouse also fails to disclose or suggest a stem that is inwardly tapered toward a distal end. In fact, Porthouse discloses the opposite: a nipple that tapers toward the proximal end of the stem, as evidenced by comparing FIG. 8 of the application with FIG. 1 of Porthouse, below. In Porthouse, the nipple is wider at the tip or distal end and narrows at the base or proximal end, where it joins the body of the nipple. Claim 34 is therefore patentable over Porthouse.

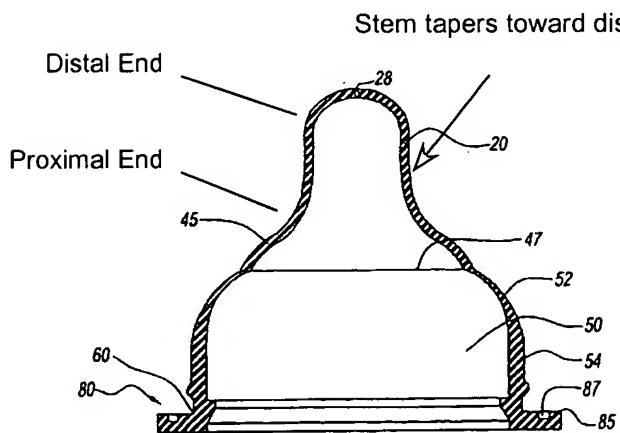


FIG. 8 of application

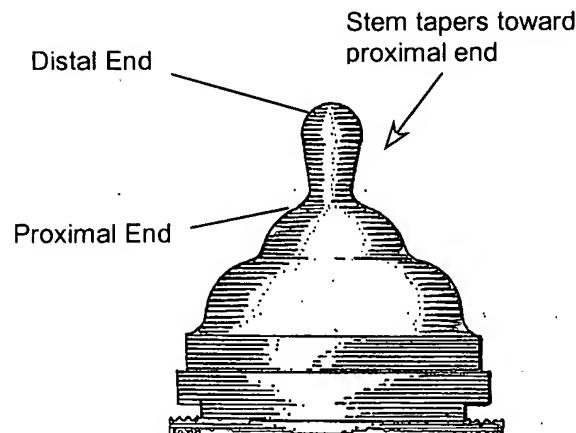


FIG. 1 of Porthouse

Moreover, Applicant respectfully submits that the feature of a stem tapering toward a distal end is not arbitrary. The tapered shape of the stem towards the distal end promotes proper latch-on by the baby. During breast-feeding, the baby latches on to the areola region of the woman's breast. Conventional nipples (similar to Porthouse) often promote latching on to the stem by having an indent located along the stem or

being of a uniform cylindrical shape. This improper latching on promotes "nipple confusion," causing the baby to forget how to properly latch-on to a mother's breast. The stem tapering toward a distal end promotes latching on to the areola region. See paragraph [0022] of the published application.

Claims 37 through 44 depend from independent claim 34 and are patentable over Porthouse for at least the reasons given above regarding claim 34.

Claims 41, 42, and 44 recite specific dimensions of a nipple. The Office Action asserts that the nipple disclosed in Porthouse "appears to have dimensions as claimed, due to its being used on baby's mouth." However, Porthouse does not include a statement of intended use. Further, patent drawings do not define the precise proportions of elements shown in the drawings and may not be relied on to show particular sizes if the specification is completely silent on the issue. MPEP 2125. Porthouse clearly does not show any sort of dimensions or scale. Moreover, as discussed above, the claimed features, including the claimed dimensions, are not arbitrary, as they contribute to the novel nipple having a shape and function that simulates a woman's breast. For these additional reasons, claims 41, 42, and 44 are patentable over Porthouse.

Independent claim 57 recites, in pertinent part, a stem having an orifice, a proximal end and a distal end, with the stem being inwardly tapered toward the distal end.

Claim 57 is patentable over Porthouse. Again, Porthouse fails to disclose or suggest a stem having an orifice. Porthouse also fails to disclose or suggest a stem that is inwardly tapered toward the distal end. Porthouse therefore fails to anticipate claim 57.

Claims 58 through 64 depend from independent claim 57 and are patentable over Porthouse for at least the reasons given above regarding claim 57. In addition,

claims 59 and 64 are patentable over Porthouse for the additional reason that these claims disclose specific dimensions, which again are clearly not shown in Porthouse.

In view of the above, Applicant respectfully submits that all claims presented in this application are patentably distinguishable over the cited reference. Accordingly, Applicant respectfully requests favorable consideration and that this application be passed to allowance.

Respectfully submitted,



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Date: December 4, 2006